

Introduced by Senators Kuehl, Cedillo, Florez, and Perata
(Coauthors: Assembly Members Goldberg, Hancock, Levine, Pavley,
and Steinberg)

February 21, 2003

An act to add Division 112 (commencing with Section 140000) to the Health and Safety Code, relating to health care coverage.

LEGISLATIVE COUNSEL'S DIGEST

SB 921, as introduced, Kuehl. Single payer health care coverage.

Existing law does not provide a system of universal health care coverage for California residents. Existing law provides for the creation of various programs to provide health care services to persons who have limited incomes and meet various eligibility requirements. These programs include the Healthy Families Program administered by the Managed Risk Medical Insurance Board, and the Medi-Cal program administered by the State Department of Health Services. Existing law provides for the regulation of health care service plans by the Department of Managed Health Care and health insurers by the Department of Insurance.

This bill would establish the California Health Care System to be administered by the newly created Health Care Agency under the control of an elected Health Care Commissioner. The bill would make all California residents eligible for specified health care benefits under the California Health Care System, which would, on a single-payer basis, negotiate for or set fees for health care services provided through the system and pay claims for those services. The bill would prohibit deductibles or copayments during the initial first 2 years of operation of the health care system, but would authorize the commissioner to establish deductibles and copayments thereafter.

This bill would declare the intent of the Legislature to impose taxes at unspecified rates on unearned income, tobacco, alcohol, employers, and employees that would be dedicated to fund the California Health Care System and would be deposited in the newly created Health Care Fund. The bill would require the commissioner to seek all necessary waivers, exemptions, agreements, or legislation to allow various existing federal, state, and local health care payments to be paid to the California Health Care System, which would then assume responsibility for all benefits and services previously paid for with those funds.

The bill would create a Health Policy Board to establish policy on medical issues and various other matters relating to the health care system. The bill would create the Office of Consumer Advocacy within the agency to represent the interests of health care consumers relative to the health care system. The bill would create the Office of Medical Practice Standards within the agency, headed by the chief medical officer, to establish standards of best medical practice, including evaluation of pharmaceuticals and medical and surgical treatment, and in conjunction with that office, would create the Medical Practice Standards Advisory Board with specified advisory duties. The bill would require the establishment of regional health agencies throughout the state. The bill would create the Office of Inspector General for the California Health Care System within the Attorney General's office, which would have various oversight powers. The bill would extend the application of certain insurance fraud laws to providers of services and products under the health care system, thereby imposing a state-mandated local program by revising the definition of a crime. The bill would enact other related provisions relative to federal preemption, subrogation, collective bargaining agreements, and associated matters.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.



The people of the State of California do enact as follows:

SECTION 1. Division 112 (commencing with Section 140000) is added to the Health and Safety Code, to read:

DIVISION 112. CALIFORNIA HEALTH CARE SYSTEM

CHAPTER 1. GENERAL PROVISIONS

140000. There is hereby established in state government the California Health Care System, which shall be administered by the Health Care Agency, an independent agency under the control of the Health Care Commissioner.

140001. This division shall be known as and may be cited as the Health Care for All Californians Act.

140002. This division shall be liberally construed to accomplish its purposes.

140003. The California Health Care Agency is hereby designated as the single state agency with full power to supervise every phase of the administration of the California Health Care System and to receive grants-in-aid made by the United States government or by the state in order to secure full compliance with the applicable provisions of state and federal law.

140004. The California Health Care Agency shall be comprised of the following entities:

(a) The Health Policy Board.

(b) The Office of Consumer Advocacy.

(c) The Office of Medical Practice Standards.

(d) The Regional Health Agencies.

140005. Findings and declarations [RESERVED].

140006. Purposes [RESERVED].

140007. As used in this division, the following terms have the following meanings.

(a) "Agency" means the California Health Care Agency.

(b) "Commissioner" means the Health Care Commissioner.

(c) "System" or "health care system" means the California Health Care System.

140008. The definitions contained in Section 140007 shall govern the construction of this division, unless the context requires otherwise.

CHAPTER 2. GOVERNANCE

140100. (a) The commissioner shall be the chief officer of the agency.

(b) Except as provided in subdivision (d), the commissioner shall be elected by the people in the same time, place, and manner as the Governor and shall serve a term of four years.

(c) Should a vacancy occur during the term of office, legislative confirmation shall be required for the position of the commissioner in the same manner and procedure as that required by Section 5 of Article V of the California Constitution.

(d) The first commissioner shall be appointed by the Governor not less than 75 nor more than 100 days following the operative date of this division, and shall be subject to confirmation by the Senate within 30 days of nomination. If the Senate does not take up the nomination within 30 days of nomination, the nominee shall be considered to have been confirmed and may take office.

(e) Should the Senate fail to confirm the nominee, the Governor shall appoint a new nominee, subject to the confirmation of the Senate as provided in subdivision (d).

(f) If the commissioner is at any time unable to perform the duties of the office, a deputy health commissioner shall perform those duties for a period of up to 90 days.

(g) In the event of a vacancy, or inability of the commissioner to perform the duties of office for a period of more than 90 days, an acting commissioner shall be appointed by the Governor and confirmed by the Senate for the balance of the commissioner's term pursuant to the same process provided in subdivision (d).

(h) The commissioner is subject to impeachment pursuant to Section 18 of Article IV of the California Constitution.

(i) The compensation and benefits of the commissioner shall be determined pursuant to the same process as provided in Section 8 of Article III of the California Constitution.

(j) The commissioner shall be subject to Title 9 (commencing with Section 81000) of the Government Code.

140101. (a) The commissioner shall be responsible for the performance of all duties, the exercise of all powers and jurisdiction, and the assumption and discharge of all responsibilities vested by law in the agency. The commissioner shall perform all duties imposed upon the commissioner by this

1 division and other laws related to health care and shall enforce the
2 execution of those provisions and laws to promote their underlying
3 aims and purposes. These broad powers include, but are not
4 limited to, the power to set rates and to promulgate generally
5 binding regulations concerning any and all matters relating to the
6 implementation of this division and its purposes.

7 (b) The commissioner shall appoint the deputy health
8 commissioner, the Director of the Health Care Fund, the directors
9 of the regional health agencies, the Director of the Office of
10 Consumer Advocacy, the chief medical officer, and the members
11 of the Medical Practice Standards Advisory Board.

12 (c) In accordance with the laws governing the state civil
13 service, the commissioner shall employ and, with the approval of
14 the Department of Finance, fix the compensation of personnel as
15 the commissioner needs to properly discharge the duties imposed
16 upon the commissioner by law, including, but not limited to, a
17 deputy commissioner, a public information officer, a chief
18 enforcement counsel, a director of the health care fund, directors
19 of the regional health agencies, a chief medical officer, a director
20 of the office of consumer advocacy, and legal counsel in any action
21 brought by or against the director under or pursuant to any
22 provision of any law under the commissioner's jurisdiction, or in
23 which the commissioner joins or intervenes as to a matter within
24 the commissioner's jurisdiction, as a friend of the court or
25 otherwise, and stenographic reporters to take and transcribe the
26 testimony in any formal hearing or investigation before the
27 commissioner or before a person authorized by the commissioner.
28 The personnel of the agency shall perform duties as assigned to
29 them by the commissioner. The commissioner shall designate
30 certain employees by rule or order that are to take and subscribe
31 to the constitutional oath of office within 15 days after their
32 appointments, and to file that oath with the Secretary of State. The
33 commissioner shall also designate those employees that are to be
34 subject to Title 9 (commencing with Section 81000) of the
35 Government Code.

36 (d) The commissioner shall adopt a seal bearing the inscription:
37 "Commissioner, Health Care Agency, State of California." The
38 seal shall be affixed to or imprinted on all orders and certificates
39 issued by him or her and other instruments as he or she directs. All
40 courts shall take judicial notice of this seal.



1 (e) The administration of the agency shall be supported from
2 the Health Care Fund created pursuant to Section 140200.

3 (f) The commissioner, as a general rule, shall publish or make
4 available for public inspection any information filed with or
5 obtained by the agency, unless the commissioner finds that this
6 availability or publication is contrary to law. No provision of this
7 division authorizes the commissioner or any of the
8 commissioner's assistants, clerks, or deputies to disclose any
9 information withheld from public inspection except among
10 themselves or when necessary or appropriate in a proceeding or
11 investigation under this division or to other federal or state
12 regulatory agencies. No provision of this division either creates or
13 derogates from any privilege that exists at common law or
14 otherwise when documentary or other evidence is sought under a
15 subpoena directed to the commissioner or any of his or her
16 assistants, clerks, or deputies.

17 (g) It is unlawful for the commissioner or any of his or her
18 assistants, clerks, or deputies to use for personal benefit any
19 information that is filed with or obtained by the commissioner and
20 that is not then generally available to the public.

21 (h) The commissioner, in pursuit of his or her duties, shall have
22 unlimited access to all nonconfidential and all nonprivileged
23 documents in the custody and control of the agency.

24 (i) The Attorney General shall render to the commissioner
25 opinions upon all questions of law, relating to the construction or
26 interpretation of any law under the commissioner's jurisdiction or
27 arising in the administration thereof, that may be submitted to the
28 Attorney General by the commissioner and upon the
29 commissioner's request shall act as the attorney for the
30 commissioner in actions and proceedings brought by or against the
31 commissioner or under or pursuant to any provision of any law
32 under the commissioner's jurisdiction.

33 (j) The commissioner shall do all of the following:

34 (1) Implement statutory eligibility standards.

35 (2) Adopt annually a benefits package for consumers. The
36 benefits package shall meet or exceed the minimums required by
37 law.

38 (3) Act directly or through one or more contractors, as the
39 single payer for all claims for services provided under this
40 division.

(4) Develop and implement separate formulae for determining budgets pursuant to Chapter 3 (commencing with Section 140200).

(5) Review the formulae described in paragraph (4) annually for appropriateness and sufficiency of rates, fees, and prices.

(6) Provide for timely payments to professional providers and health facilities and clinics through a structure that is efficient to administer and that eliminates unnecessary administrative costs.

(7) Implement, to the extent permitted by federal law, standardized claims and reporting methods under this division.

(8) Establish an enrollment system that will ensure that all eligible California residents, including those who travel frequently, those who cannot read, and those who do not speak English, are aware of their right to health care, and are formally enrolled.

(9) Determine, with the advice of the Health Policy Board, the number and precise geographical composition of the system's regions, based on criteria of common economic and demographic features and geographic contiguity.

(10) Report annually to the Legislature and the Governor on or before October 1 on the performance of the health care system, its fiscal condition and need for rate adjustments, consumer copayments, or consumer deductible payments, recommendations for statutory changes, receipt of payments from the federal government, whether current year goals and priorities were met, future goals and priorities, and major new technology or prescription drugs that may affect the cost of health care.

(11) Bid for prescription drug and durable medical equipment to achieve the lowest possible cost available under the system formulary.

(12) Negotiate for, or set, rates, fees and prices involving any aspect of the health system, and establish procedures relating thereto.

(13) Administer the revenues of the Health Care Fund pursuant to Section 140200.

(14) Procure funds, including loans, lease or purchase property, obtain appropriate liability and other forms of insurance for the system, its employees and agents.

(15) Establish, appoint, and fund as part of the administration of the agency, the following:

- 1 (A) A Health Policy Board pursuant to Section 140102.
2 (B) An Office of Consumer Advocacy with appropriate staff
3 for each region, pursuant to 140103.
4 (C) An Office of Medical Practice Standards and a Medical
5 Practice Standards Advisory Board with appropriate staff,
6 pursuant to Section 140104.
7 (D) Directors of agencies with appropriate staff for each
8 region, pursuant to Section 140108.
9 (16) Administer all aspects of the agency that include, but are
10 not limited to, all of the following:
11 (A) Establish standards and criteria for allocation of operating
12 funds and funds from the Health Care Fund as described in Chapter
13 3 (commencing with Section 140200).
14 (B) Meet regularly with the directors of the regional agencies,
15 and the chief medical officer, and the Director of the Office of
16 Consumer Advocacy to review the impact of the agency and its
17 policies on the regions.
18 (C) Budget the _____ accounts for each region in a manner to
19 meet most equitably the health needs of the population of the state
20 as a whole and the population within each region.
21 (D) Establish health system goals in measurable terms.
22 (E) Establish statewide health care databases to support health
23 care planning.
24 (F) Implement policies to assure culturally competent and
25 linguistically sensitive care and develop mechanisms and
26 incentives to achieve this purpose.
27 140102. (a) The commissioner shall establish a Health
28 Policy Board and shall be president of the board. The board shall
29 consist of the following members:
30 (1) The commissioner.
31 (2) The deputy commissioner.
32 (3) The Secretary of the Health and Welfare Agency.
33 (4) The Director of Health Services.
34 (5) The directors of the regional agencies.
35 (6) The Health Care Fund Director.
36 (7) The Director of the Office of Consumer Advocacy.
37 (8) The chief medical officer.
38 (9) Two physicians. The Senate Committee on Rules and the
39 Speaker of the Assembly shall each appoint one of these members.



1 (10) One registered nurse. The Governor shall appoint this
2 member.

3 (11) One licensed vocational nurse. The Senate Committee on
4 Rules shall appoint this member.

5 (12) One licensed allied health practitioner. The Speaker of the
6 Assembly shall appoint this member.

7 (13) One representative of public hospitals. The Governor shall
8 each appoint this member.

9 (14) One representative of private hospitals. The Senate
10 Committee on Rules shall appoint this member.

11 (15) Four consumers of health care. The Governor shall
12 appoint two of these members, of whom one shall be a member of
13 the disability community. The Senate Committee on Rules and the
14 Speaker of the Assembly shall each appoint one of these members.

15 (16) One representative of organized labor. The Speaker of the
16 Assembly shall appoint this member.

17 (17) One representative of the business community. The
18 Governor shall appoint this member.

19 (18) One representative of community clinics. The Senate
20 Committee on Rules shall appoint this member.

21 (19) One representative of retail businesses that dispense
22 pharmaceuticals or durable medical equipment. The Speaker of
23 the Assembly shall appoint this member.

24 (b) In making their appointment pursuant to this section, the
25 Governor, the Senate Committee on Rules, and the Speaker of the
26 Assembly shall make good faith efforts to assure that their
27 appointments, as a whole, reflect, to the greatest extent feasible,
28 the social and geographic diversity of the state.

29 (c) Any member appointed by the Governor, the Senate
30 Committee on Rules, the Speaker of the Assembly, or the regional
31 directors shall serve for a four-year term. These members may be
32 reappointed for succeeding four-year terms.

33 (d) Vacancies that occur shall be filled within 30 days after the
34 occurrence of the vacancy, and shall be filled in the same manner
35 in which the vacating member was selected or appointed. The
36 commissioner shall notify the appropriate appointing authority of
37 any expected vacancies on the board.

38 (e) Members of the board shall serve without compensation,
39 but shall be reimbursed for actual and necessary expenses incurred
40 in the performance of their duties to the extent that reimbursement

1 for those expenses is not otherwise provided or payable by another
2 public agency or agencies, and shall receive ____ dollars (\$__) for
3 each full day of attending meetings of the board. For purposes of
4 this section, “full day of attending a meeting” means presence at,
5 and participation in, not less than 75 percent of the total meeting
6 time of the board during any particular 24-hour period.

7 (f) The board shall meet at least six times a year in a place
8 convenient to the public. All meetings of the board shall be open
9 to the public. A majority of the membership of the board shall
10 constitute a quorum. Any action taken by the board under this
11 division requires a majority of the members present at a meeting
12 of the board at which a quorum is present.

13 (g) The Health Policy Board shall do all of the following:

14 (1) Establish policy on medical issues, population-based public
15 health issues, research priorities, scope of services, expanding
16 access to care, and evaluation of the performance of the system.

17 (2) Investigate proposals for innovative approaches to health
18 promotion, disease and injury prevention, education, research, and
19 health care delivery.

20 (3) Establish standards and criteria by which requests by health
21 facilities for capital improvements shall be evaluated.

22 (h) It is unlawful for the board or any of its assistants, clerks,
23 or deputies to use for personal benefit any information that is filed
24 with or obtained by the board and that is not then generally
25 available to the public.

26 (i) No member of the board shall make, participate in making,
27 or in any way attempt to use his or her official position to influence
28 a governmental decision in which he or she knows or has reason
29 to know that he or she has a financial interest.

30 (j) Members of the board shall be subject to Title 9
31 (commencing with Section 81000) of the Government Code.

32 140103. (a) There is within the agency an Office of
33 Consumer Advocacy to represent the interests of the consumers of
34 health care. The goal of the office shall be to help residents of the
35 state secure the health care services and benefits to which they are
36 entitled under the laws administered by the agency and to advocate
37 on behalf of and represent the interests of consumers in
38 governance bodies created by this division and in other forums.

39 (b) The office shall be headed by a director appointed by the
40 commissioner.

1 (c) The director shall establish an office in the City of
2 Sacramento and, at minimum, in each regional district.

3 (d) The duties of the director shall be determined by the
4 commissioner, and shall include, but not be limited to, the
5 following:

6 (1) Developing standards and procedures for resolving
7 consumer disputes with the agency.

8 (2) Developing educational and informational guides for
9 consumers describing their rights and responsibilities, and
10 informing them on effective ways to exercise their rights to secure
11 health care services. The guides shall be easy to read and
12 understand, available in English and other languages, and shall be
13 made available to the public by the agency, including access on the
14 agency's Internet Web site and through public outreach and
15 educational programs.

16 (3) Establishing a toll-free telephone number to receive
17 complaints regarding the agency and its services. The hearing and
18 speech impaired may use the California Relay Service's toll-free
19 telephone numbers to contact the Office of Consumer Advocacy.
20 The agency's Internet Web site shall have complaint forms and
21 instructions online.

22 (4) Examining complaints and suggestions from the public.

23 (5) Recommending improvements to the agency, the office of
24 the commissioner, the Health Policy Board, the Office of Medical
25 Practice Standards, and the Medical Standards Practice Board.

26 (6) Examining the extent to which individual health facilities
27 and clinics in a region meet the needs of the community in which
28 they are located

29 (7) Receiving, investigating, and responding to complaints
30 from any source about any aspect of the Health Care System,
31 referring the results of investigations to the appropriate
32 professional provider or facility licensing boards or law
33 enforcement agencies, as appropriate.

34 (8) Publishing an annual report to the public and the
35 Legislature containing a statewide evaluation of the agency, as
36 well as an evaluation of each regional agency.

37 (9) Holding public hearings, at least annually, within each
38 region concerning complaints and suggestions from the public.

(e) The director, in pursuit of his or her duties, shall have unlimited access to all nonconfidential and all nonprivileged documents in the custody and control of the agency.

(f) Nothing in this division shall prohibit a consumer or class of consumers or the director from seeking relief through the judicial system.

140104. There is within the agency an Office of Medical Practice Standards which shall establish standards of best medical practice, including evaluation of pharmaceuticals and medical and surgical treatments, based on credible evidence of benefit, for care provided pursuant to this division. The office shall be headed by the chief medical officer, who is appointed by the commissioner.

140105. (a) The chief medical officer shall do all of the following:

(1) Serve as president of the Medical Practice Standards Advisory Board.

(2) In consultation with the Medical Practice Standards Advisory Board:

(A) Study and report on the efficacy of health care treatments and of drugs for particular conditions.

(B) Evaluate medical services to determine credible evidence of significant benefit.

(C) Identify causes of medical errors and procedures that would decrease those errors.

(D) Establish an evidence-based formulary.

(E) Identify treatments and medications that are unsafe or of no proven value.

(3) Establish a process for soliciting information on these standards from health care providers and consumers.

140106. (a) There is within the Office of Medical Practice Standards the Medical Practice Standards Advisory Board. The commissioner shall appoint the members of the board. The board shall consist of the following members:

(1) Six physicians and surgeons or osteopathic physicians.

(2) One physician assistant.

(3) One nurse practitioner.

(4) One dentist.

(5) One pharmacist.

(6) One psychologist.

(7) One chiropractor.

1 (8) One optometrist.

2 (9) One podiatrist.

3 (10) One member of an allied licensed health care profession.

4 (11) The chief medical officer.

5 (12) Four health care consumers, one of whom shall have a
6 disability.

7 (b) In making these appointments, the commissioner shall
8 make a good faith effort to assure that the appointments, as a
9 whole, reflect, to the greatest extent feasible, the social and
10 geographic diversity of the state. The commissioner, in appointing
11 the licensed members of the board, shall include members whose
12 health care practice or employment includes fee-for-service,
13 group practice, clinics, hospitals, and integrated health delivery
14 systems.

15 (c) Members of the board shall serve without compensation,
16 but shall be reimbursed for actual and necessary expenses incurred
17 in the performance of their duties to the extent that reimbursement
18 for those expenses is not otherwise provided or payable by another
19 public agency or agencies, and shall receive ____ dollars (\$__) for
20 each full day of attending meetings of the board. For purposes of
21 this section, “full day of attending a meeting” means presence at,
22 and participation in, not less than 75 percent of the total meeting
23 time of the board during any particular 24-hour period.

24 (d) The board shall meet at least six times a year in a place
25 convenient to the public. All meetings of the board shall be open
26 to the public. A majority of the membership of the board shall
27 constitute a quorum. Any action taken by the board under this
28 division requires a majority of the members present at a meeting
29 of the board at which a quorum is present.

30 (e) Members of the board shall be subject to Title 9
31 (commencing with Section 81000) of the Government Code.

32 140107. (a) The Medical Practice Standards Advisory Board
33 shall advise the chief medical officer on the following:

34 (1) The efficacy of health care treatments and of drugs for
35 particular conditions.

36 (2) Medical services for which there is credible evidence of
37 significant benefit.

38 (3) Causes of medical errors and procedures that would
39 decrease those errors.

40 (4) The establishment of an evidence-based formulary.

1 (5) Treatments and medications that are unsafe or of no proven
2 value.

3 (b) No member of the board shall make, participate in making,
4 or in any way attempt to use his or her official position to influence
5 a governmental decision in which he or she knows or has reason
6 to know that he or she has a financial interest.

7 140108. There shall be established regional health agencies
8 throughout the state, as determined by the commissioner.

9 140109. There is within the Office of the Attorney General an
10 Office of Inspector General for the California Health Care System.
11 The Inspector General shall be appointed by the Governor and
12 subject to Senate confirmation. The Inspector General shall be
13 subject to the direction of the Attorney General.

14 140110. The Inspector General shall have broad powers to
15 investigate and review the financial and business records of
16 individuals, public and private agencies and institutions, and
17 private corporations that provide services or products to the
18 system, the costs of which are reimbursed by the system. The
19 Inspector General shall investigate allegations of misconduct on
20 the part of an employee or appointee of the agency and on the part
21 of any provider of services that are reimbursed by the system and
22 shall report any findings of misconduct to the Attorney General.
23 The Inspector General shall investigate patterns of medical
24 practice that may indicate fraud and abuse related to over or under
25 utilization or other inappropriate utilization of medical products
26 and services. The Inspector General shall arrange for the collection
27 and analysis of data needed to investigate the inappropriate
28 utilization of these products and services. The Inspector General
29 shall conduct additional reviews or investigations of financial and
30 business records when requested by the Governor or by any
31 member of the Legislature and shall report findings of the review
32 or investigation to the Governor and the Legislature. The Inspector
33 General shall annually report recommendations for improvements
34 to the system or the agency to the Governor and the Legislature.

35 140111. The provisions of the Insurance Fraud Prevention
36 Act (Chapter 12 (commencing with Section 1871) of Division 1
37 of the Insurance Code) and the provisions of Article 6
38 (commencing with Section 650) of Chapter 1 of Division 2 of the
39 Business and Professions Code, shall be applicable to providers of



1 services and products, payment for which is made through the
2 system under this division.

3 140112. Nothing contained in this division is intended to
4 repeal any legislation or regulation governing the professional
5 conduct of any person licensed by the State of California or any
6 legislation governing the licensure of any facility licensed by the
7 State of California. All federal legislation and regulations
8 governing referral fees and fee-splitting, including, but not limited
9 to, Sections 1370a-7b and 1395nn of Title 42 of the United States
10 Code shall be applicable to all providers of services reimbursed
11 under this division, whether or not that provider is paid with funds
12 coming from the federal government.

13
14 CHAPTER 3. FUNDING

15
16 Article 1. General Provisions

17
18 140200. In order to support the agency effectively in the
19 administration of this division, there is hereby established in the
20 State Treasury the Health Care Fund. The fund shall be
21 administered by a director, appointed by the commissioner.

22 All moneys collected, received, and transferred pursuant to this
23 division shall be transmitted to the State Treasury to be deposited
24 to the credit of the Health Care Fund for the purpose of financing
25 the California Health Care System.

26
27 Article 2. Revenue

28
29 140220. It is the intent of the Legislature to dedicate revenue
30 from the following sources for deposit in the Health Care Fund:

31 (a) A personal income tax surtax for health care on unearned
32 income at the rate of ___ percent, pursuant to Section ___ of the
33 Revenue and Taxation Code.

34 (b) A cigarette and tobacco products surtax for health care,
35 imposed pursuant to Section ___ of the Revenue and Taxation Code,
36 as follows:

37 (1) On all cigarettes sold in this state, ___ on each pack of
38 cigarettes.

(2) On tobacco products other than cigarettes sold in this state, a tax rate determined by the State Board of Equalization that is equivalent to the tax imposed on cigarettes.

(c) An alcohol surtax for health care, imposed pursuant to Section ___ of the Revenue and Taxation Code, as follows:

(1) On all beer sold in this state, ___ on each 12-ounce can and at a proportionate rate for any other quantity.

(2) On all still wines containing not more than 14 percent of absolute alcohol by volume that are sold in this state, ___ on each 750 milliliter bottle and at a proportionate rate for any other quantity.

(3) On champagne, sparkling wine, and sparkling hard cider whether naturally or artificially carbonated, sold in this state, ___ on each 750 milliliter bottle and at a proportionate rate for any other quantity.

(4) On all distilled spirits sold in this state, ___ on each 1.75 liter bottle and at a proportionate rate for any other quantity.

Article 3. Governmental Payments

140240. The commissioner shall seek all necessary waivers, exemptions, agreements, or legislation, so that all current federal payments to the state for health care shall be paid directly to the California Health Care System, which shall then assume responsibility for all benefits and services previously paid for by the federal government with those funds. In obtaining the waivers, exemptions, agreements, or legislation, the commissioner shall seek from the federal government a contribution for health care services in California that shall not decrease in relation to the contribution to other states as a result of the waivers, exemptions, agreements, or legislation.

140241. The commissioner shall seek all necessary waivers, exemptions, agreements, or legislation, so that all current state payments for health care shall be paid directly to the system, which shall then assume responsibility for all benefits and services previously paid for by state government with those funds. In obtaining the waivers, exemptions, agreements, or legislation, the commissioner shall seek from the Legislature a contribution for health care services that shall not decrease in relation to state government expenditures for health care services in the year that

1 this division was enacted, corrected for change in state gross
2 domestic product, the size and age of population, and the number
3 of residents living below the federal poverty level.

4 140242. The commissioner shall seek all necessary waivers,
5 exemptions, agreements, or legislation, so that all current county
6 or other local government agency payments for health care,
7 including employee health benefits and health benefits for retired
8 employees, shall be paid directly to the system, which shall then
9 assume responsibility for all benefits and services previously paid
10 for by county or local government agency with those funds. In
11 obtaining the waivers, exemptions, agreements, or legislation, the
12 commissioner shall seek contributions for health care services that
13 shall not decrease in relation to expenditures for health care
14 services in the year of passage of the division, corrected for change
15 in gross domestic product, the size and age of population, and the
16 number of residents living below the federal poverty level.

17 140243. The system's responsibility for providing care shall
18 be secondary to existing federal, state or local governmental
19 programs for health care services to the extent that funding for
20 these programs are not transferred to the Health Care Fund or that
21 the transfer is delayed beyond the date on which initial benefits are
22 provided under the system.

23 140244. In order to minimize the administrative burden of
24 maintaining eligibility records for programs transferred to the
25 system, the commissioner shall strive to reach an agreement with
26 federal, state, and local governments in which their contributions
27 to the Health Care Fund shall be fixed to the rate of change of the
28 state gross domestic product, the size and age of population, and
29 the number of residents living below the federal poverty level.

30 140245. If, and to the extent that, federal law and regulations
31 allows the transfer of Medi-Cal funding to the system, the
32 commissioner shall pay all premiums, deductible payments, and
33 coinsurance for qualified Medicare beneficiaries who are
34 receiving benefits pursuant to Chapter 3 (commencing with
35 Section 12000) of Part 3 of Division 9 of the Welfare and
36 Institutions Code.

37 140246. In the event and to the extent that the commissioner
38 obtains authorization to incorporate Medicare revenues into the
39 Health Care Fund, Medicare Part B payments that previously were
40 made by individuals or the commissioner shall be paid by the

1 system for all individuals eligible for both the system and the
2 Medicare program.

3
4 Article 4. Employee Contributions
5

6 140260. (a) Commencing on January 1 of the second year
7 following passage of this division and quarterly thereafter, it is the
8 intent of the Legislature to require all persons employed in this
9 state to pay a health care tax of ___ percent on their wage income
10 pursuant to Section ___ of the Unemployment Insurance Code. The
11 tax payments shall be withheld by employers pursuant to Chapter
12 2 (commencing with Section 13020) of Division 6 of the
13 Unemployment Insurance Code.

14 (b) Nothing in this section shall invalidate an employer's
15 existing obligation under a collective bargaining agreement to pay
16 an employee's health care benefits. If an existing contractual
17 agreement requires an employer to pay the entire cost of an
18 employee's health care premium, the employer shall pay the
19 employee's portion of the health care tax.

20
21 Article 5. Employer Contributions
22

23 140280. Commencing on January 1 of the second year
24 following passage of this division and quarterly thereafter, it is the
25 intent of the Legislature to require all employers of resident
26 employees to pay a health care tax of ___ percent of total payroll
27 pursuant to Section ____ of the Unemployment Insurance Code.

28
29 Article 6. Federal Preemption
30

31 140300. An employer is exempt from the payroll tax
32 requirements of Section 140280 if the employer has established an
33 employee benefit plan subject to federal law which preempts the
34 funding provisions of this division.

35 140301. (a) The commissioner shall pursue all reasonable
36 means to secure a repeal or a waiver of any provision of federal law
37 that preempts any provision of this division.

38 (b) In the event that a repeal or a waiver cannot be secured, the
39 commissioner shall exercise his or her powers to promulgate rules
40 and regulations, or seek conforming state legislation, consistent

with federal law, in an effort to best fulfill the purposes of this division.

140302. (a) To the extent permitted by federal law, an employee entitled to health or related benefits under a contract or plan which, under federal law, preempts provisions of this division, shall first seek benefits under that contract or plan before receiving benefits from the system under this division.

(b) No benefits shall be denied under the system created by this division unless the employee has failed to take reasonable steps to secure like benefits from the contract or plan, if those benefits are available.

(c) Nothing in this section shall preclude an employee from receiving benefits from the system under this division that are superior to benefits available to the employee under the contract or plan.

(d) Nothing in this division is intended, nor shall this division be construed, to discourage recourse to contracts or plans that are protected by federal law.

(e) To the extent permitted by federal law, a provider shall first seek payment from the contract or plan, before submitting bills to the health care system.

Article 7. Subrogation

140320. (a) It is the intent of this division to establish a single public payer for all health care in the State of California. However, until such time as the role of all other payers for health care have been terminated, health care costs shall be collected from collateral sources whenever medical services provided to an individual are, or may be, covered services under a policy of insurance, health care service plan, or other collateral source available to that individual, or for which the individual has a right of action for compensation to the extent permitted by law.

(b) As used in this article, the term collateral source includes all of the following:

(1) Insurance policies written by insurers, including the medical components of automobile, homeowners, and other forms of insurance.

(2) Health care service plans and pension plans.

(3) Employers.

1 (4) Employee benefit contracts.

2 (5) Government benefit programs.

3 (6) A judgment for damages for personal injury.

4 (7) Any third party who is or may be liable to an individual for
5 health care services or costs.

6 (c) The term collateral source does not include either of the
7 following:

8 (1) A contract or plan subject to federal preemption.

9 (2) Any governmental unit, agency or service, to the extent that
10 subrogation is prohibited by law. An entity described in
11 subdivision (b) is not excluded from the obligations imposed by
12 this article by virtue of a contract or relationship with a
13 governmental unit, agency, or service.

14 (d) The commissioner shall attempt to negotiate waivers, seek
15 federal legislation, or make other arrangements to incorporate
16 collateral sources in California into the health care system.

17 140321. Whenever an individual receives health care services
18 under the system and he or she is entitled to coverage,
19 reimbursement, indemnity, or other compensation from a
20 collateral source, he or she shall notify the health care provider and
21 provide information identifying the collateral source, the nature
22 and extent of coverage or entitlement, and other relevant
23 information. The health care provider shall forward this
24 information to the commissioner. The individual entitled to
25 coverage, reimbursement, indemnity, or other compensation from
26 a collateral source shall provide additional information as
27 requested by the commissioner.

28 140322. (a) The system shall seek reimbursement from the
29 collateral source for services provided to the individual, and may
30 institute appropriate action, including suit, to recover the
31 reimbursement. Upon demand, the collateral source shall pay to
32 the Health Care Fund the sums it would have paid or expended on
33 behalf of the individual for the health care services provided by the
34 system.

35 (b) In addition to any other right to recovery provided in this
36 article, the commissioner shall have the same right to recover the
37 reasonable value of benefits from a collateral source as provided
38 to the Director of Health Services by Article 3.5 (commencing
39 with Section 14124.70) of Chapter 7 of Part 3 of Division 9, in the
40 manner so provided.

140323. (a) If a collateral source is exempt from subrogation or the obligation to reimburse the system as provided in this article, the commissioner may require that an individual who is entitled to medical services from the source first seek those services from that source before seeking those services from the system.

(b) To the extent permitted by federal law, contractual retiree health benefits provided by employers shall be subject to the same subrogation as other contracts, allowing the health care system to recover the cost of services provided to individuals covered by the retiree benefits, unless and until arrangements are made to transfer the revenues of the benefits directly to the health care system.

(c) In the event of unanticipated expenditures in excess of _____, or if cost control mechanisms indicated under _____ are unable to lower expenditures without endangering the health of Californians, the commissioner shall request the Legislature to increase system funding either by increasing tax rates on the sources described in this division or from other revenue sources.

140324. (a) Default, underpayment, or late payment of any tax or other obligation imposed by this division shall result in the remedies and penalties provided by law except as provided in this section.

(b) Eligibility for benefits under Chapter 4 (commencing with Section 140400) shall not be impaired by any default, underpayment, or late payment of any tax or other obligation imposed by this chapter.

140325. The agency and the commissioner shall be exempt from the regulatory oversight and review procedures empowered to the Office of Administrative Law pursuant to Chapter 3.5 (commencing with Section 11340) of Division 3 of Title 2 of the Government Code. Actions taken by the agency, including, but not limited to, the negotiating or setting of rates, fees, or prices, and the promulgation of any and all regulations, shall be exempt from any review by the Office of Administrative Law, except for Sections 11344.1, 11344.2, 11344.3, and 11344.6 of the Government Code, addressing the publication of regulations.

CHAPTER 4. ELIGIBILITY

140400. All California residents shall be eligible for the California Health Care System. Residency shall be based upon

1 physical presence in the state with the intent to reside. The
2 commissioner shall establish standards and a simplified procedure
3 to demonstrate proof of residency.

4 140401. The commissioner shall establish a procedure to
5 enroll eligible residents and provide each eligible individual with
6 identification that can be used by providers to determine eligibility
7 for services.

8 140402. The commissioner shall determine eligibility
9 standards for residents temporarily out of state and for
10 nonresidents temporarily employed in California. Coverage for
11 emergency care shall be at prevailing local rates. Coverage for
12 nonemergency care shall be according to rates and conditions
13 established by the commissioner. The commissioner may require
14 that a resident be transported back to California when prolonged
15 treatment of an emergency condition is necessary.

16 140403. Visitors to California shall be billed for all services
17 received under the system. The commissioner may establish
18 inter-governmental arrangements with other states and countries
19 to provide reciprocal coverage for temporary visitors.

20 140404. All persons eligible for health benefits from
21 California employers but who are residing in another jurisdiction
22 shall be eligible for health benefit under this division providing
23 that they make payments equivalent to the payments they would
24 be required to make if they were residing in California.

25 140405. Unmarried, unemancipated minors shall be deemed
26 to have the residency of their parent or guardian. If a minor's
27 parents are deceased and a legal guardian has not been appointed,
28 or if a minor has been emancipated by court order, the minor may
29 establish his or her own residency.

30 140406. (a) An individual shall be presumed to be eligible if
31 he or she arrives at a health facility or clinic and is unconscious,
32 comatose, or otherwise unable, because of his or her physical or
33 mental condition, to document eligibility or to act in his or her own
34 behalf, or if the patient is a minor, the patient shall be presumed to
35 be eligible, and the health facility or clinic shall provide care as if
36 the patient were eligible.

37 (b) Any individual shall be presumed to be eligible when
38 brought to a health facility pursuant to any provision of Section
39 5150 of the Welfare and Institutions Code.

(c) Any individual involuntarily committed to an acute psychiatric facility or to a hospital with psychiatric beds pursuant to any provision of Section 5150 of the Welfare and Institutions Code, providing for involuntary commitment, shall be presumed eligible.

(d) All health care facilities subject to provisions governing emergency medical treatment and active labor shall comply with those provisions.

CHAPTER 5. BENEFITS

140500. Any eligible individual may choose to receive services under the California Health Care System from any willing professional provider participating in the system. No provider may refuse to care for a patient solely because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, age, or sexual orientation.

140501. Covered benefits in this chapter shall include all medical care determined to be medically appropriate by the consumer's health care provider. These benefits include, but are not limited to, all of the following:

(a) Inpatient and outpatient health facility or clinic services.

(b) Inpatient and outpatient professional provider services by licensed health care professionals.

(c) Diagnostic imaging, laboratory services, and other diagnostic and evaluative services.

(d) Durable medical equipment, appliances, and assistive technology including prosthetics, eyeglasses, and hearing aids and their repair.

(e) Rehabilitative care.

(f) Emergency transportation and necessary transportation for health care services for disabled persons.

(g) Language interpretation for health care services, including sign language for those unable to speak, or hear, or who are language impaired, and braille translation or other services for those with no or low vision.

(h) Child and adult immunizations and preventive care.

(i) Health education.

(j) Hospice care.

- 1 (k) Home health care.
- 2 (l) Prescription drugs that are listed on the system formulary.
- 3 Nonformulary prescription drugs may be included where special
- 4 standards and criteria are met.
- 5 (m) Mental health care.
- 6 (n) Dental care.
- 7 (o) Podiatric care.
- 8 (p) Chiropractic care.
- 9 (q) Acupuncture.
- 10 (r) Blood and blood products.
- 11 (s) Emergency care services.
- 12 (t) Vision care.
- 13 (u) Adult day care.
- 14 (v) Case management and coordination to ensure services
- 15 necessary to enable a person to remain safely in the least restrictive
- 16 setting.
- 17 (w) Substance abuse treatment.
- 18 (x) Care of up to seven days in a skilled nursing facility
- 19 following hospitalization.
- 20 (y) Dialysis.
- 21 140502. The commissioner may expand benefits beyond the
- 22 minimum benefits described in this chapter when expansion meets
- 23 the intent of this division and there are sufficient funds to cover the
- 24 expansion.
- 25 140503. The following health care services shall be excluded
- 26 from coverage by the system:
- 27 (a) Health care services determined to have no medical
- 28 indication by the chief medical officer and the Medical Practice
- 29 Standards Advisory Board.
- 30 (b) Surgery, dermatology, orthodontia, prescription drugs, and
- 31 other procedures primarily for cosmetic purposes, unless required
- 32 to correct a congenital defect, restore or correct a part of the body
- 33 that has been altered as a result of injury, disease, or surgery, or
- 34 determined to be medically necessary by a qualified, licensed
- 35 health care provider in the system.
- 36 (c) Private rooms in inpatient facilities, unless determined to be
- 37 medically necessary by a qualified, licensed provider in the
- 38 system.
- 39 (d) Services of a professional health care provider or facility
- 40 that is not licensed or accredited by the state.



1 140504. (a) The commissioner shall institute no deductible
2 payments or copayments during the initial two years of the systems
3 operation. The commissioner and the Health Policy Board shall
4 review this policy annually, beginning in the third year of
5 operation, and determine whether deductible payments or
6 copayments should be established.

7 (b) If the commissioner establishes copayments consistent with
8 subdivision (a), they shall be limited to two hundred fifty dollars
9 (\$250) per person per year and five hundred dollars (\$500) per
10 family per year.

11 (c) If the commissioner establishes deductible payments
12 consistent with subdivision (a), they shall be limited to two
13 hundred fifty dollars (\$250) per person per year and five hundred
14 dollars (\$500) per family per year.

15 (d) Copayments shall be imposed first on individuals who
16 obtain specialist care and are not referred for that care by their
17 primary health care provider. These copayments shall not be
18 included in the individual's or family's copayment limit.

19 (e) No copayments or deductible payments may be established
20 for preventive care as determined by a patient's primary care
21 provider.

22 (f) No copayments or deductible payments may be established
23 when prohibited by federal law.

24 (g) The commissioner shall establish standards and procedures
25 for waiving copayments or deductible payments. Waivers of
26 copayments or deductible payments shall not affect the
27 reimbursement of facilities and providers of care.

28 (h) Any copayments established pursuant to subdivision (b)
29 and collected by health care providers or facilities shall be
30 transmitted to the Treasurer to be deposited to the credit of the
31 Health Care Fund.

32 (i) Nothing in this division shall be construed to diminish the
33 benefits that an individual has under a collective bargaining
34 agreement.

35 (j) Nothing in this division shall preclude employees from
36 receiving benefits available to them under a collective bargaining
37 agreement or other employee-employer agreement that are
38 superior to benefits under this division.

39 SEC. 2. No reimbursement is required by this act pursuant to
40 Section 6 of Article XIII B of the California Constitution because

1 the only costs that may be incurred by a local agency or school
2 district will be incurred because this act creates a new crime or
3 infraction, eliminates a crime or infraction, or changes the penalty
4 for a crime or infraction, within the meaning of Section 17556 of
5 the Government Code, or changes the definition of a crime within
6 the meaning of Section 6 of Article XIII B of the California
7 Constitution.

